

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:18-CV-124-D

DAVID BEAM,

Plaintiff,

v.

SOUTHEASTERN FREIGHT LINES, INC.,

Defendant.

ORDER

On June 8, 2018, Southeastern Freight Lines, Inc. (“Southeastern Freight” or “defendant”) moved to dismiss plaintiff’s amended complaint [D.E. 16] and filed a memorandum in support [D.E. 17]. See Fed. R. Civ. P. 12(b)(6). On June 29, 2018, David Beam (“Beam” or “plaintiff”) responded in opposition [D.E. 21]. On July 13, 2018, Southeastern Freight replied [D.E. 26].

The court has considered Southeastern Freight’s motion under the governing standard. See Fed. R. Civ. P. 12(b)(6); Ashcroft v. Iqbal, 556 U.S. 662, 667–68 (2009); Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555–56, 563 (2007): Counts one and three eke across the plausibility line. Whether counts one and three will survive a motion for summary judgment is an issue for another day.

Count two fails to state a claim. No private right of action exists under the North Carolina Equal Employment Practices Act. See N.C. Gen. Stat. § 143-422.3; McLean v. Patten Cmty., Inc., 332 F.3d 714, 719 (4th Cir. 2003); Smith v. First Union Nat’l Bank, 202 F.3d 234, 247 (4th Cir. 2000); Soliman v. Worldwide Languages Res., Inc., No. 5:16-CV-748-D, 2016 WL 7494858, at *6 (E.D.N.C. Dec. 29, 2016) (unpublished), aff’d, 698 F. App’x 135 (4th Cir. 2017) (per curiam)(unpublished); Bratcher v. Pharm. Prod. Dev., Inc., 545 F. Supp. 2d 533, 544 (E.D.N.C. 2008). Moreover, North Carolina does not recognize a claim for wrongful demotion in violation of

North Carolina public policy. See, e.g., Soliman, 2016 WL 7494858, at *6; Bufford v. Centurylink, 759 F. Supp. 2d 707, 708 (E.D.N.C. 2010); Chambers v. Ashley Furniture Indus., Inc., No. 3:10-CV-362, 2010 WL 4977102, at *9 (W.D.N.C. Nov. 9, 2010) (unpublished).

In sum, defendant's motion to dismiss [D.E. 16] is GRANTED in part and DENIED in part. Count two in plaintiff's amended complaint is DISMISSED WITH PREJUDICE. Counts one and three survive. The court DENIES plaintiff's motion to dismiss [D.E. 23] as meritless. The court will issue a scheduling order in due course.

SO ORDERED. This 25 day of October 2018.



JAMES C. DEVER III
United States District Judge